REMARKS

This responds to the Office Action mailed on June 1, 2007 and the Advisory Action mailed on August 24, 2007.

Claim1 and 7 are amended. Claims 1-16 remain pending in this application.

§103 Rejection of the Claims

Applicant has amended claim 1 to better describe the subject matter recited in the claim. Applicant believes that claim 1 is not obvious in view of the cited references since, even if combined, the combination does not include each limitation recited in the claim. For instance, Applicant cannot find in the combination: "giving the patient a unique authorization code that is not capable of being reused;" or "the patient being able to selectively cancel the transaction and receive a traditional prescription printed by the dispensing apparatus; and if the patient does not cancel the transaction, the patient receiving the prescribed therapeutic agent from the dispensing apparatus."

Applicant cannot find in the cited combination any discussion that would include or suggest a patient being able to selectively cancel the transaction and receive a traditional prescription printed by the dispensing apparatus.

Moreover, the Schoonen reference discusses a prescription signal that includes "information about at least one prescribed drug for a patient." (Col. 5, lines 39-41). The Momich reference states that a prescription can include the date issued. However, even if the prescription signal discussed by Schoonen included a date of issue, there is nothing in the asserted combination that prevents the reuse of such a signal. For instance, the same prescription can be given to the patient on the same day. This would have the same "prescription signal" even if the specific medication had been dispensed once already. On page 10 of the Office Action, the Examiner argues that "the location of the new drug would be at a different location, therefore the new authorization code would be different." However, this does not appear to be true. Schoonen discusses that the prescription signal is entered into the machine and the control unit of the machine goes to the medication, wherever it is. (See col. 5, lines 58-62). Thus, the prescription signal of Schoonen doesn't need to be different, and is capable of being reused.

As another example of Schoonen using the same prescription signal, the provider could have a typographical error and type in a wrong date when prescribing a medication. The patient would still get their medication since the same erroneous prescription signal would be input by the physician into the dispenser. In either example, the prescription signal of Schoonen is "capable" of being reused, in contrast with the claimed limitation of "not capable of being reused."

Accordingly, the Office Action cannot point to any teaching that the prescription signal of the Schoonen/Momich combination cannot be reused, let alone that it is incapable of being reused. Applicant respectfully submits that "giving the patient a unique authorization code that is not capable of being reused," does not necessarily flow from the asserted combination.

Claims 2-3 and 6 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claims 7-10

Applicant has amended claim 7 to correct a typographical error. Applicant believes claim 7 is not obvious in view of the cited references since, even if combined, the combination does not include each limitation recited in the claim. For instance, Applicant cannot find in the cited combination: "providing to the patient an authorization code unique to the authorized prescription, the authorization code not capable of being reused for other prescriptions; the patient inputting the authorization code into the dispenser and the patient entering separate patient authorization data into the dispenser; the dispenser determining whether the authorization code correlates to the patient authorization data," as recited in claim 7. As discussed above, Applicant believes the asserted combination does not include the "authorization code unique to the authorized prescription, the authorization code not capable of being reused for other prescriptions" subject matter.

Furthermore, the combination also does not teach: the patient entering separate patient authorization data into the dispenser, and the dispenser determining whether the authorization code correlates to the patient authorization data, as recited in claim 7. In Schoonen, it appears the patient enters a single prescription signal into the machine. The patient does not enter any other authorization data or information. When the prescription signal of Schoonen matches a

prescription signal entered online by a doctor then the prescription is filled. (Col. 5, lines 53-55). Thus the dispenser of Schoonen does not determine "whether the [patient inputted] authorization code correlates to the [patient entered] patient authorization data," as recited in claim 7.

Claims 8-10 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claims 4-5 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoonen (U.S. Patent No. 6,230,927), modified by Momich et al. (U.S. Patent No. 6,335,907) and further in view of Lion (U.S. Patent No. 4,732,411).

Claims 4-5 and 11 include each limitation of their respective parent claims and are not obvious over the cited references since the combination does not overcome the deficiencies of the primary reference as discussed above regarding claims 1 and 7. Reconsideration and allowance is respectfully requested.

Claims 12-13 and 15-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoonen (U.S. Patent No. 6,230,927) in view of Williams et al. (U.S. Patent No. 6,036,812) and Chudy (U.S. Patent No. 6,370,841).

Applicant believes claim 12 is not obvious in view of the cited references since, even if combined, the combination does not include each limitation recited in the claim. For instance, Applicant cannot find in the cited combination: the dispenser labeling the therapeutic product with information unique to the adjudicated prescription, and the dispenser scanning the labeled therapeutic product to verify the labeled therapeutic product before delivering the therapeutic product to the patient, as recited in claim 12. As previously discussed, none of the references describe or suggest scanning a labeled product after it is labeled. On page 11 of the Office Action, the Examiner states that "Schoonen discloses the scanning of the drug to verify proper drug being delivered." However, although Schoonen may discuss scanning an identification code on the drug package, none of the cited references discuss scanning a dispenser-applied label before delivering the product to a patient. Thus, even if combined, the proposed combination does not include each limitation recited in the claim.

Claims 13 and 15-16 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoonen (U.S. Patent No. 6,230,927), modified by Williams et al. (U.S. Patent No. 6,036,812) and Chudy (U.S. Patent No. 6,370,841), further in view of Momich et al. (U.S. Patent No. 6,335,907).

Claim 14 includes each limitation of its parent claim and is not obvious over the cited references since the combination does not overcome the deficiencies of the primary reference as discussed above regarding claim 12. Reconsideration and allowance is respectfully requested.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 359-3267 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date: September 4, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 4th day of September 2007.

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